

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

BARBARA FISHER,

Plaintiff,

-vs-

PERMA-FIX OF DAYTON, INC.,

Defendant.

:

Case No. 3:04-cv-418

:

Chief Magistrate Judge Michael R. Merz

:

**AGREED PROTECTIVE ORDER REGARDING PLAINTIFF BARBARA FISHER'S
MEDICAL INFORMATION**

Upon agreement between and among Plaintiff Barbara Fisher, Plaintiff-Intervenor the United States and Defendant Perma-Fix of Dayton, Inc. (hereinafter, the "Parties"), this Court hereby enters the following Protective Order, applicable to medical information to be provided by Plaintiff Fisher.

I. Designation of Confidential Information

A. "Confidential Information" Defined

Any medical information that Plaintiff Fisher produces or discloses in this litigation.

B. Documents and Things -Designation

Documents and things containing Confidential Information that Plaintiff Fisher wishes to protect against unauthorized disclosure shall be stamped or affixed with the notation "CONFIDENTIAL" on the first page thereof. In such a case, documents and things shall be inspected only by those persons permitted access to Confidential Information under this Protective Order. Such access does not constitute a waiver of confidentiality. The disclosing party must designate Confidential

Information in the documents and things, pursuant to the provisions of this Protective Order, prior to receipt of final copies by the receiving party. The designation process shall not be used to delay the production of any document.

C. Depositions – Designation

Plaintiff Fisher may designate a portion of the transcript of a deposition as containing the Confidential Information provided for under this Protective Order orally and on the record during the deposition, or in writing within 10 days after receipt of the transcript of the deposition. Transcripts and portions of transcripts shall not be treated as Confidential under this Protective Order unless and until Plaintiff Fisher makes such a designation. Counsel shall be responsible for notating the copies of the portions of deposition transcript in their possession or under their control that are designated as containing Confidential Information. The designated portion of the deposition transcript shall be marked confidential by the court reporter or by stamping the notation “CONFIDENTIAL” on each page of the transcript containing such confidential information and each confidential portion of each such page shall be treated as Confidential Information.

II. Restriction and Disclosure of "Confidential Information"

General Non-Disclosure

No Confidential Information shall be disclosed to any person except as set forth in this Protective Order. Extracts or summaries of Confidential Information may be prepared, but no such extract or summary shall disclose any Confidential Information, except to the persons specifically identified below. No person shall use any Confidential Information for any purpose other than to assist counsel of record in preparation for trial of this litigation. All copies of Confidential Information shall be subject to the provisions of this Protective Order. Nothing contained in this Protective Order shall affect the right of any other party, or third party, to disclose or use Confidential Information it has produced. Any person who violates the provisions of this Protective

Order or who makes an inaccurate certification hereunder may be subject to sanctions by the Court.

B. Exceptions

Confidential Information may be disclosed to the following persons only:

1. **Attorneys.** The trial attorney for each of the Parties, the attorneys in the firms and agencies who are working with or assisting the trial attorneys, and paralegal assistants and stenographic and clerical employees working under the direct supervision of such attorneys.
2. **Consultant.** An independent consultant and its clerical personnel who are not employees of the parties or their affiliates, who are retained by any attorney described in paragraph 1 above to assist in the preparation of trial of this litigation, with disclosure only to the extent necessary to perform such work. However, in no event shall any Confidential Information be disclosed to the independent consultant until that person has executed a written declaration in the form attached to this Protective Order as Exhibit A (the "Declaration").
3. **Court Personnel.** The Court and other persons involved in the administration and adjudication of the litigation, including court reporters.

III. Filing Confidential Information with the Court.

The confidential portions of documents and other matters filed with the Court (including transcripts of depositions, exhibits, physical evidence, answers to interrogatories, requests for admission, and briefs that contain Confidential Information) shall be filed as provided in S. D. Ohio Civ. R. 79.3.

IV. Disposition of Confidential Information at Termination of Litigation

Termination of Proceedings

Termination of proceedings shall not relieve any person from the obligation of this Protective Order, unless the Court orders otherwise. All confidential documents will be returned to Counsel for Plaintiff Fisher.

V. Amendments and Exceptions by Order of the Court

This Protective Order may be changed by further order of the Court for good cause shown, and is without prejudice to the rights of any Party to move for relief from any of its provisions, or to seek or agree to different or additional protection for any particular material or information. No Party's agreement to the terms of this Order shall constitute a waiver of that Party's ability to contest that any particular documents contain Confidential Information.

The Court acknowledges receipt of counterpart originals of this document signed by counsel for all parties.

June 23, 2006.

s/ Michael R. Merz
Chief United States Magistrate Judge

EXHIBIT A

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:

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PERMA-FIX OF DAYTON, INC.,

:

Defendant.

**DECLARATION
OF**

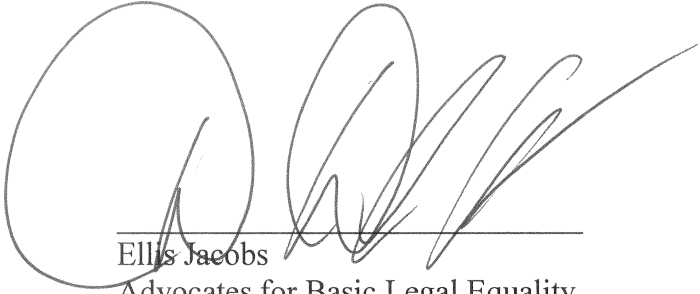
I, _____, state as follows:

1. I am presently employed by _____ in the
position of _____.
2. I have received a copy of the Protective Order in this case signed by Judge
Michael R. Merz on _____.
3. I have carefully read and understand the provisions of the Protective Order.
4. I will comply with all of the provisions of the Protective Order.
5. I hereby submit to the jurisdiction of this Court for the purpose of enforcement of this
Protective Order.

SWORN UNDER PENALTY OF PERJURY

Printed Name: _____

Date: _____



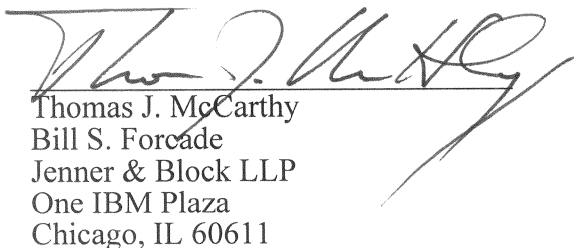
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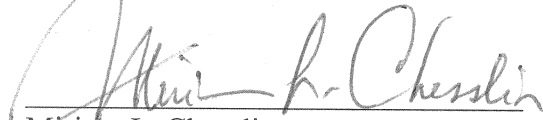
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